UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

| GARY LEE MILLER |] | |
|---------------------|---|----------------|
| Petitioner, |] | |
| |] | |
| v. |] | No. 3:05-1038 |
| |] | Judge Campbell |
| GLEN TURNER, WARDEN |] | |
| Respondent. |] | |

ORDER

In accordance with the Memorandum contemporaneously entered, the Court finds that the petitioner has failed to state an actionable claim for habeas corpus relief. Therefore, the petition for writ of habeas corpus (Docket Entry No. 1) is DENIED and this action is hereby DISMISSED. Rule 8(a), Rules -- § 2254 Cases.

Should the petitioner file a timely notice of appeal from this order, such notice shall be treated as an application for a certificate of appealability, 28 U.S.C. § 2253(c), which will NOT issue because the petitioner has been unable to make a substantial showing of the denial of a constitutional right.

Entry of this order shall constitute the final judgment in this action.

It is so ORDERED.

Todd Campbell

United States District Judge

Carpbell